



# California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control  
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment  
State Water Resources Control Board • Regional Water Quality Control Boards



Linda S. Adams  
*Secretary for  
Environmental Protection*

Arnold Schwarzenegger  
*Governor*

Certified Mail: 7003 1680 0000 6174 8487

June 18, 2007

Ms. Laura Mapes  
Fire Marshal  
Union City Fire Department  
34009 Alvarado-Niles Road  
Union City, California 94587

Dear Ms. Mapes:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Office of the State Fire Marshal, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of Union City Fire Department's Certified Unified Program Agency (CUPA) on May 23 and 24, 2007. The evaluation was comprised of an in-office program review and field oversight inspections. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Union City Fire Department's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Status Reports to Cal/EPA that depict your agencies progress towards correcting the identified deficiencies. Please submit your Deficiency Status Reports to Kareem Taylor every 90 days after the evaluation date. The first deficiency progress report is due on August 22, 2007.

Cal/EPA also noted during this evaluation that Union City Fire Department has worked to bring about a number of local program innovations, including: Union City Fire Department's work, in coordination with the other Alameda County CUPAs, on uniform inspection checklists for the entire county. The CUPA also participates in interdisciplinary inspections with the Community Health Action Team (CHAT). We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Don Johnson", with a long, sweeping horizontal line extending to the right.

Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

cc: Mr. Terry Snyder (Sent Via Email)  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Mr. Francis Mateo (Sent Via Email)  
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cc: Ms. Vickie Sakamoto (Sent Via Email)  
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Mr. Brian Abeel (Sent Via Email)  
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## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

### **CUPA: Union City Fire Department**

**Evaluation Date: May 23 and 24, 2007**

### **EVALUATION TEAM**

**Cal/EPA: Kareem Taylor**

**SWRCB: Terry Snyder**

**OES: Brian Abeel**

**DTSC: Mark Pear**

**OSFM: Francis Mateo**

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

	<b><u>Deficiency</u></b>	<b><u>Preliminary Corrective Action</u></b>
1	<p>The CUPA is not submitting its Annual Summary Reports to Cal/EPA by September 30 of each fiscal year (FY). Annual Summary Reports for FYs 04/05 and 05/06 were submitted after the September 30 due date.</p> <p>Title 27, Section 15290 (a) (Cal/EPA)</p>	<p>Submit the CUPA's FY 06/07 Annual Summary Reports to Cal/EPA by September 30, 2007. Submit all subsequent Annual Summary Reports by September 30 of each year.</p> <p>No status report update is necessary for this deficiency.</p>
2	<p>The CUPA is not reporting the following on its Annual Enforcement Summary Report (Report 4):</p> <ul style="list-style-type: none"> <li>• all facilities with violations types</li> <li>• all facilities that have received informal enforcement actions.</li> </ul>	<p>Submit the CUPA's FY 06/07 Annual Enforcement Summary Report to Cal/EPA by September 30, 2007 that reports the following:</p> <ul style="list-style-type: none"> <li>• all facilities with violations types</li> <li>• all facilities that have received informal enforcement actions.</li> </ul>

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	<b>Title 27, Section 15290 (a)(3) (Cal/EPA)</b>	No status report update is necessary for this deficiency.
<b>3</b>	<p>The CUPA did not publish notice in a local newspaper in general circulation that Air Liquide, 700 Decoto Road, submitted their RMP and the CUPA has initiated the process for government and public review. The published noticed should be kept in the facility file.</p> <p><b>Title 19, Section 2745.2 (a) (2) (OES)</b></p>	Immediately publish notice and include a copy of the published notice with the submission of the 1 <sup>st</sup> deficiency status report by August 30, 2007.
<b>4</b>	<p>The CUPA did not conduct a complete oversight inspection on 04/04/07. During the inspection, the following was noted:</p> <ul style="list-style-type: none"> <li>Inspector failed to observe that contaminated containers had not been marked with the date that they had been emptied.</li> </ul> <p><b>Title 22, Section 66261.7(f) (DTSC)</b></p>	Corrected on site.

<b>CUPA Representative</b>	_____	Original signed
	(Print Name)	(Signature)
 <b>Evaluation Team Leader</b>	 _____	 Original signed
	(Print Name)	(Signature)

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**PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

*The observations and recommendations provided in this section simply address those areas not specifically required of the CUPA by regulation or statute and are provided for continuous program improvement only.*

1. **Observation:** The CUPA's Standard Operating Guidelines (SOG) binder does not have tabs to separate different subject areas, appendices, and attachments. It would be easier to find specific information if the SOG contained tabs that correspond with the table of contents. Appendices and attachments should also be included into the table of contents.

**Recommendation:** The CUPA added tabs to its SOG during the evaluation.

2. **Observation:** The CUPA's web site does not contain any CUPA related material.

**Recommendation:** The CUPA should update the Union City Fire Department web site to include information about the Unified Program. Links to the Unified Program Consolidated Forms (UPCFs), permit applications, form instructions, fee schedules, public outreach documents, and CUPA contacts would make it more convenient for owners/operators to obtain the information they need. Online system that allows owners/operators to submit annual inventory certifications and pay CUPA fees online would be an innovative addition to the CUPA program.

3. **Observation:** At the time of the Underground Storage Tank (UST) facility oversight inspection, the CUPA staff did not ask the service technician to test the UST overfill spill bucket drain valve for operational compliance.

**Recommendation:** The SWRCB strongly encourages the CUPA to require its UST inspectors to regularly test the UST overfill spill bucket drain valve for operational compliance.

4. **Observation:** The UST inspection checklist generally identifies all of the elements that the inspector reviews at the site but Significant Operational Compliance (SOC) items are not indicated on the checklist.

**Recommendation:** The SWRCB encourages the CUPA to improve the inspection checklist by identifying the SOC items on the checklist. This will make compliance determination easier for tracking and reporting purposes.

5. **Observation:** During the file review, some of the files did not contain current "no-change" inventory certification statements. Most of the files missing current "no-change" inventory certification statements were from businesses that were not inspected recently. Additional files from businesses inspected more recently were reviewed. All of these files contained current "no-change" inventory certification statements.

**Recommendation:** The CUPA should check a facility's file before site inspection to verify if inventory information is current. During the inspection, the CUPA should furnish the facility owner/operator with a "no-change" inventory certification form or a new inventory form to allow for convenient update to the CUPA and facility records.

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6. **Observation:** The CUPA's last finalized Area Plan dated October 2001 and the most recent draft Area Plan dated May 2007 were reviewed to see if these area plans address all the required elements (Health and Safety Code 25503 (c) and Title 19 Sections 2722-2728). Both area plan versions were well organized and easy to read. They did contain a table of contents and an area plan element checklist that allowed the reader to easily access the areas where the required elements were located. The area plans did contain appropriate detail for a large number of the elements; however portions of the elements lack appropriate information like missing attachments that described general procedures/provisions/protocols/guidelines or incorrectly references attachments. The recommendations below are items to consider when finalizing the latest draft version.

**Recommendation:** To ensure that the CUPA's Area Plan addresses all the required elements please consider the following:

- Include all attachments
- Correctly reference attachments by number
- All outside agency information contained in the area plan is correct and current
- Refresh agencies of their contractual agreements and update as necessary
- Meet with all local agencies that will be involved to some extent with a hazardous material incident in Union City to gain their input into, involvement with and acceptance of the CUPA's area plan.

7. **Observation:** The CUPA was able to demonstrate that all complaints which were referred by DTSC from April 01, 2004 to April 1, 2007 were investigated. Follow-up documentation could be found for Complaints Nos. 05-0105-0034, 04-1204-0688, 05-0405-0192 and 05-0205-0079.

**Recommendation:** Keep up the good work. Ensure that all complaints are being received by the CUPA from DTSC by providing the e-mail address of the person who should receive complaints to [slaney@dtsc.ca.gov] complaint coordinator. Investigate and document all complaints referred. Investigation does not always entail inspection, as many issues may be resolved by other means such as a phone call. In any instance, it is suggested that all investigations be documented, either by inspection report or by "note to file" and placed in the facility file. Please keep up good work and continue to notify the complaint coordinator of the disposition of all complaints.

8. **Observation:** The CUPA's inspection reports do not classify violations as Class I, Class II, and minor.

**Recommendation:** The CUPA may wish to modify its inspection report in order to classify violations so that enforcement modes may be identified for Class I, Class II and minor violations. Please see generic checklist provided.

9. **Observation:** The April 04, 2007 inspection report for Orcon Inc. lacks a description of the facility's manufacturing processes occurring on site. Other inspection reports reviewed also lacked detail as well.

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**Recommendation:** The inspector should develop the observation section of the report in order to describe more fully the facility operations occurring on site so that anyone who may read the report may gain an understanding of the products made, services provided, and the industrial/manufacturing processes occurring at the facility to produce those manufactured products. Providing such detail also aids in understanding what types of wastes may be generated.

- 10. Observation:** The inspector had a camera in his vehicle during the oversight inspection, but did not carry it with him.

**Recommendation:** The inspector should bring a camera with him during the inspection in case a violation is observed.

- 11. Observation:** The CUPA did not conduct a review of their Area Plan within 36 months of their last version, which was finalized in October 2001. The CUPA is in the process of updating their Area Plan, and currently has an uncompleted draft version. The CUPA has been approved for a Hazardous Materials Emergency Preparedness (HMEP) grant from OES for updating their Area Plan.

**Recommendation:** Once the Area Plan is complete, submit it to OES.



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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. For the past three FYs, the CUPA has met an inspection frequency standard that is above the regulatory mandate for all program elements, except UST (UST facilities have an annual inspection frequency). The following are the percentages of facilities routinely inspected per FY:
  - Business plan: 39% in FY 05/06, 44% in FY 04/05, and 36% in FY 03/04
  - CalARP: 66% in FY 05/06, 33% in FY 04/05, and 100% in FY 03/04
  - UST: 100% in FY 05/06, 100% in FY 04/05, and 100% in FY 03/04
  - Hazardous Waste Generators: 45% in FY 05/06, 40% in FY 04/05, and 37% in FY 03/04
2. Union City Fire Department has implemented several programs in addition to its CUPA responsibilities.
  - **Green Business Program:** This program recognizes businesses that go beyond regulatory compliance and promote and practice conservation and pollution reduction. The Green Business Program is conducted in partnership with 25 other agencies and cities. At the end of the 2005/2006 reporting period, there were 4 Green Businesses in Union City.
  - **Clean Water Program:** The CUPA in coordination with the Alameda County Public Works Department incorporate storm water inspections with CUPA and California Fire Code inspections. During Clean Water Program inspections, businesses are inspected for illicit discharges to storm drain systems. During the 2005/2006 reporting period, 110 businesses were inspected for storm water compliance.
  - **Incident Response Program:** The CUPA's 2 hazardous materials inspectors are also the primary hazardous materials responders in Union City. They provide technical support to the fire and public works departments during spills and abandonment of unknown hazardous materials.
  - **Community Health Action Team (CHAT):** The CUPA along with the police, fire, building, and other city departments participates in interdepartmental inspections in Union City. These inspections are unannounced and occur in a location considered to be a concern to the community. The goal of CHAT is to enhance the community by correcting nuisances. The City participated in 4 CHAT inspections for the 2005/2006 reporting period.
  - **Fire Prevention:** The CUPA inspectors are now required to conduct fire inspections in addition to the triennial CUPA inspection. The additional annual fire inspections amount to approximately 187 per inspector. Those inspections often require additional follow up inspections, up to three inspections per facility. These additional inspections help ensure the businesses are in compliance with their regulatory requirements and address any health and safety issues that may pose a risk to the community.

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3. The UST inspector conducted the site inspection in a thorough and professional manner. His attention to detail and knowledge of code and regulations resulted in an excellent inspection. The inspector required the service technician to test the fail safe operation of the sensors by disabling the sensor boards in the Veederroot Control Panel. The inspector also asked the SWRCB evaluator for suggestions on how to improve his inspection technique and procedure.
4. The CUPA has submitted all of their required Quarterly UST Program Reports (Report 6) on time since the inception of the program.
5. Consolidation/Coordination/Consistency: The Union City CUPA continually commits to work with the other CUPA's in Alameda County to implement a consolidated, coordinated, and consistent Unified Program. This is achieved through attendance at numerous meetings including the:
  - Alameda County Fire Chief's Association
  - Hazardous Materials Subcommittee, and
  - Alameda County Environmental Task Force.

Topics and activities include:

- Streamline enforcement strategies with the Alameda County District Attorneys Office
- Workshops
- Streamlining inspection forms, data management, and policies and procedures
- Updates on law and regulations from state agencies' liaisons and other representatives from other jurisdictions
- Coordination of the Alameda County Clean Water Program and Green Business Program
- Unidocs

The CUPA is currently working with the CUPAs in Alameda County to develop Uniform Inspection checklists for all the Unified Program elements. These checklists will help the CUPAs and their staff to conduct more uniform/consistent inspections in all the CUPA jurisdictions throughout Alameda County.

The CUPA also routinely meets with the Alameda County Water District (ACWD) and the Department of Toxic Substances Control (DTSC) – Site Remediation Group to discuss remediation of contaminated sites in Union City. The Cities of Newark, Fremont and Union City have entered into agreements with ACWD and on some occasions with DTSC to manage oversight of contaminated sites.

6. The Union City Fire Department referred the following civil cases to the Alameda County DA:
  - Q-MET, Inc which was settled for \$60,000 for the company: 1) failing to update its hazardous materials business plan 2) failing to update its risk management plan, 3) failing to give PBR renewal notification, 4) storing incompatibles.
  - Penske Truck Leasing, Inc which was settled for \$20,000 for the company violating underground storage tank violations.

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- Union City Fire Department participated with other CUPAs in the Pacific Bell Telephone Company case which was settled for \$4,000,000 for the company 1) failing to annually test and certify underground storage tank monitoring systems, 2) failing to repair underground storage tank systems without required permits, 3) failing to maintain financial responsibility for taking corrective action, 4) failing to provide adequate training of all employees, 5) failing to maintain documentation of training of employees, 6) failing to maintain adequate hazardous material safety emergency response procedures, and lastly 7) failing to report releases of hazardous materials to an administering agency.